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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,770	04/11/2001	Carlos De La Hurga	250591.90279	2242
7590 02/26/2004			EXAMINER	
Michael A. Jaskolski Quarles & Brady, LLP 411 East Wisconsin Avenue Milwaukee, WI 53202			MISKA, VIT W	
			ART UNIT	PAPER NUMBER
			2841	

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/832,770

Applicant(s)

DE LA HUERGA, CARLOS

Examiner

Vit W. Miska

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-152 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-152 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Applicant's election of the species of Fig. 59 is acknowledged. Applicant further has indicated that all claims in the application, except for claims 13,15,16,30, 58 and 66 are readable on the elected species.

2. Upon further review of the application and in view of applicant's remarks, it is apparent that the application contains numerous species in addition to those previously identified. For example, the elected Fig. 59 species is described in the specification as constituting several possible embodiments in paragraphs 416, 417,418, 419, 421, 422, 423. Each of these is considered a separate embodiment or species of the Fig. 59 variant. Similarly, the embodiment of Figs. 26 and 27 is described as having several variants in par. 264. The specification is replete with such variations of the several modifications illustrated in the drawing with language such as "in one embodiment", "may include", "in an alternative", etc. Each one of these variations described in the specification is considered to be a separate "species" of the invention, assuming they are considered patentable over each other and are not usable together in one embodiment (MPEP 806.04(f) and (h)). Applicant is advised that species defined by these criteria may be described in the specification, and not evident from a drawing figure, as noted above with respect to Fig. 59.

When identifying species in response to this requirement, applicant should refer to a single disclosed embodiment described in the specification, i.e. by identifying the description passages referring to such embodiment.

Several of the claims are generic to some species; however, no claim is considered generic to all species. Claim 1 identified by applicant is not generic to all species because the embodiment of Fig. 2 is not identified as having an RF memory device.

In view of the remarks above, an election of species is restated as follows:

Election/Restrictions

3. This application contains claims directed to the numerous patentably distinct species of the claimed invention: for example the species described in paragraphs 216-233 with respect to Fig. 2, the species described in paragraphs 242-243 corresponding to Figs. 12-15, the species described in paragraphs 244-248 illustrated in Figs. 16 and 17, the species described in paragraphs 300-311 with respect to Figs. 35-36, one of the embodiments described in paragraphs 411-462 with reference to Figs. 59-63, etc.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic to all species. Several claims

are generic to some species, e.g. claim 1 may be generic to some species described with respect to Fig. 59

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election. Applicant is further advised that should an election be made of a species referenced to a specific figure of drawing, if such figure is described in the specification as containing multiple embodiments or alternatives, as noted above with respect to Fig. 59, applicant should select one such described embodiment or species and refer to the appropriate description in the specification where such single embodiment is described.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.


Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vit W. Miska whose telephone number is 571-282-2108. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-282-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VM
2/18/2004



Vit Miska
Primary Examiner